

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

AARON COURTNEY McNAIR

PLAINTIFF

VS.

CIVIL ACTION NO. 3:12-cv-750-WHB-RHW

JAMES INGRAM. ET AL.

DEFENDANTS

OPINION AND ORDER

This cause is before the Court on the Report and Recommendation ("R and R") of United States Magistrate Judge Robert H. Walker. After considering the R and R, Plaintiff's Objection¹, as well as governing authorities, the Court finds the R and R should be adopted in its entirety.

I. Discussion

On or about November 6, 2012, Plaintiff, Aaron Courtney McNair ("McNair"), filed a lawsuit in this Court seeking damages for alleged civil rights violations under 42 U.S.C. § 1983. The defendants named in the Complaint include Officer James Ingram ("Ingram").

On April 16, 2013, United States Magistrate Judge Robert H. Walker entered an Order advising McNair that the United States Marshal Service had been unable to serve Ingram because Ingram no longer worked at the address McNair had provided. See Order

¹ As Plaintiff is proceeding in this case *pro se*, the allegations in his pleadings have been liberally construed. See United States v. Wilkes, 20 F.3d 651, 653 (5th Cir. 1994).

[Docket No. 20]. McNair was also informed that he would need to provide an alternate address for the purpose of having Ingram served. Id. McNair was duly warned that the failure to provide the alternate address would result in Judge Walker's recommending the dismissal of the Complaint as to Ingram. Id. On April 25, 2013, McNair informed the Court that he did not have an alternate address for Ingram. See Resp. [Docket No. 21]. Thereafter, Judge Walker entered the subject R and R, recommending that Ingram be dismissed as a defendant in this case. McNair timely objected to the R and R. See Objection [Docket No. 36].

A district judge has authority to review a magistrate judge's R & R, and is required to make a *de novo* determination of any portion of a R & R to which a specific written objection has been made. See 28 U.S.C. § 636(b); FED. R. CIV. P. 72(b). Thereafter, the district judge may accept, reject, or modify the recommendation of the magistrate; receive further evidence in the case; or recommit the matter to the magistrate with further instructions. Id.

In his Objection to the R and R, McNair indicates that he wants to proceed with his claims against Ingram, but that he has been unable to obtain a current address for the purpose of having him served. Although McNair is incarcerated, and proceeding *in forma pauperis*, it is his duty to provide the United States Marshal Service with the addresses necessary to serve process. Additionally, while McNair indicates that he has not received any

help from the jail with respect to obtaining a current address for Ingram, he has not informed the Court as to manner in which he has sought such information and/or submitted any evidence to show that his requests have been denied. Finally, there has not been any showing that the jail, or any of the other named defendants in this case would have information regarding Ingram's current address.

After reviewing the R and R, the Docket in this civil case, and McNair's Objection, the Court finds Judge Walker applied the correct legal standards. Accordingly, the Court overrules McNair's Objection, and adopts the R and R in its entirety.

II. Conclusion

For the foregoing reasons:

IT IS THEREFORE ORDERED that the Report and Recommendation of the Magistrate Judge [Docket No. 34] is hereby accepted and adopted.

IT IS FURTHER ORDERED that Plaintiff's Objection to the R and R [Docket No. 36] is hereby overruled.

IT IS FURTHER ORDERED that Defendant, James Ingram, is hereby dismissed from this case, without prejudice.

SO ORDERED this the 5th day of August, 2013.

s/ William H. Barbour, Jr.
UNITED STATES DISTRICT JUDGE